

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

EXECUTIVE ORDER W-183-98

WHEREAS, in a free society, no person should be compelled to make financial contributions to political or ideological causes which that person opposes; and

WHEREAS, the First and Fourteenth Amendments of the United States Constitution guarantee the right of public employees not to be compelled to contribute financially to political or ideological activities as a condition of their employment; and

WHEREAS, the United States Supreme Court in *Abood v. Detroit Board of Education*, 431 U.S. 209 (1977), ruled that a public employee who has not voluntarily joined a union has a First and Fourteenth Amendment right to object to any portion of any compulsory union fee used to contribute to political candidates or to political or ideological activities unrelated to the union's duties as exclusive bargaining representative; and

WHEREAS, despite this fundamental constitutional right, many public employees are unaware of their right to withdraw from membership in, or not join, a union that expends their dues for political or ideological activities with which they disagree, or of their right to pay a reduced fee (known as a "fair share" fee) that excludes the costs of all political, ideological, and other union activities unrelated to the union's duties as exclusive bargaining representative in those workplaces where all employees must pay a fee to defray the costs of the union's duty as exclusive representative; and

WHEREAS, the State Employer-Employee Relations Act, GOV'T. CODE § 3512 *et seq.*, and the Educational Employment Relations Act, GOV'T. CODE § 3540 *et seq.*, give public employees the right not to join a union and to thereupon object to paying any portion of any compulsory union fee that funds activities beyond that union's representational obligations; and

WHEREAS, rights hidden from the knowledge of those they are meant to protect are a hollow guarantee;

NOW, THEREFORE, I, PETE WILSON, Governor of the State of California, by virtue of the power and authority vested in me by the Constitution and statutes of the State of California, do hereby issue this order to become effective immediately:

PAGE TWO

1. To the fullest extent permitted by law, the Public Employment Relations Board shall promulgate rules and regulations under the State Employer-Employee Relations Act to require all public agencies and departments to give public employees, upon the commencement of their employment and on an annual basis thereafter, notice of their rights under Government Code §§ 3513(k), 3515, 3515.7(c)-(g), and 3515.8, which notice should include all of the following rights:

- a) The right of a public employee to form, join, and participate in the activities of employee organizations, or to refuse to join or participate in the activities of employee organizations;
- b) The right of a public employee not to join, and except as limited by a maintenance of membership agreement, not to maintain membership in, a union in order to retain his or her job;
- c) The right of any public employee who pays a fair share fee in lieu of union membership to demand and receive from the union a return of any part of that fee which represents expenditures in aid of activities of a partisan political or ideological nature only incidentally related to the terms and conditions of employment or applied toward the cost of any other benefits available only to members of the union; and
- d) The right, and the procedure for exercising the right, of a majority of public employees in a negotiating unit to rescind the requirement in a collective bargaining agreement that employees who are not union members pay a fair share fee to the union.

2. To the fullest extent permitted by law, the Public Employment Relations Board shall promulgate rules and regulations under the Educational Employment Relations Act to require public school employers to give public school employees, upon the commencement of their employment and on an annual basis thereafter, notice of their rights under Government Code §§ 3540.1(i), 3543, and 3546(b), which notice should include all of the following rights:

- a) The right of public school employees to form, join, and participate in the activities of employee organizations, or to refuse to join or participate in the activities of employee organizations;
- b) The right of a public school employee not to join, and except as limited by a maintenance of membership agreement, not to maintain membership in, a union in order to retain his or her job;
- c) The right of any public school employee who pays a fair share fee in lieu of union membership to object to any portion of the fee for any political or other activities beyond the union's duty to represent the employees in the bargaining unit; and

PAGE THREE

- d) The right, and the procedure for exercising the right, of a majority of public school employees in a negotiating unit to rescind any organizational security arrangement (including any arrangement to require public school employees who are not union members to pay a fair share fee to the union).

3. To the fullest extent permitted by law, the Public Employment Relations Board shall promulgate rules and regulations under the Higher Education Employer-Employee Relations Act to require higher education employers to give higher education employees, upon the commencement of their employment and on an annual basis thereafter, notice of their rights under Government Code §§ 3565, 3571. 1(f), 3583, 3585, and 3587, which notice should include all of the following rights:

- a) The right of higher education employees to form, join, and participate in the activities of employee organizations, or to refuse to join or participate in the activities of Employee organizations;
- b) The right of a higher education employee not to join, and except as limited by an organizational security agreement, not to maintain membership in, a union in order to retain his or her job;
- c) The right of higher education employees covered by a memorandum of understanding not to pay a fee in an amount deemed excessive or discriminatory by the Public Employment Relations Board as a condition of becoming a member of an employee organization; and
- d) The right of a higher education employee who is a member of a union to receive a detailed, annual financial report of the union.

4. The Public Employment Relations Board shall take all reasonable steps to enforce the current regulations set forth in 8 CC.R. §§ 32990-32997.

5. Except to the extent not permitted by law and wherever applicable, all state departments and agencies shall immediately advise state employees of any bargaining unit covered by a memorandum of understanding that (i) except as limited by a maintenance of membership agreement, they are not required to join, or maintain membership in, a union in order to retain their jobs, and (ii) employees who are not union members have the right to demand and receive from the union the return of any portion of any compulsory fair share fee which represents expenditures made by the union in aid of activities of a partisan political or ideological nature only incidentally related to the terms and conditions of employment or applied toward the cost of any other benefits available only to members of the union. The advice shall be provided to employees in a way calculated to come to their attention and shall include (i) posting notices in conspicuous places in and about offices, including all places where notices to employees are customarily posted, (ii) transmitting a memorandum to each individual employee by e-mail or otherwise, and (iii) placing the notice on the department or agency's Web site, if any. Such advice shall also notify employees of the appropriate procedures for seeking a refund.

PAGE FOUR

6. Except to the extent not permitted by law and wherever applicable, all state departments and agencies shall promptly advise state employees of any bargaining unit whose memorandum of understanding has expired of their right to join or remain members of a union or to not join, or withdraw from union membership and thereby be relieved of paying any union dues. The advice shall be provided to employees in a way calculated to come to their attention and shall include (i) posting notices in conspicuous places in and about offices, including all places where notices to employees are customarily posted, (ii) transmitting a memorandum to each individual employee by e-mail or otherwise, and (iii) placing the notice on the department or agency's Web site, if any.

7. The Department of Personnel Administration shall assist state departments and agencies in preparing the notices set forth in paragraphs 5 and 6.

IN WITNESS WHEREOF I have hereunto set my hand
and caused the Great Seal of the State of California to be
affixed this 10th day of September, 1998.

Governor of California

ATTEST:

Secretary of State